

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

U.S. FUTURES EXCHANGE, L.L.C. and
U.S. EXCHANGE HOLDINGS, INC.,

Plaintiffs,

v.

BOARD OF TRADE OF THE CITY OF
CHICAGO, INC. and CHICAGO
MERCANTILE EXCHANGE INC.,

Defendants.

Civil No. 1:04-CV-6756

Hon. James B. Zagel

**PLAINTIFFS' COMBINED RESPONSE TO STATEMENTS MADE AT THE
JUNE 8, 2015 HEARING AND MOTION FOR ENTRY OF A SCHEDULING ORDER**

At the Court's direction, Plaintiffs, U.S. Futures Exchange, L.L.C. and U.S. Exchange Holdings, Inc. (collectively, "Eurex" or "Plaintiffs"), hereby respond to issues raised by Defendants and the Court at the June 8, 2015 hearing. At that hearing, Plaintiffs highlighted representative findings from the DOJ Documents that provide significant evidence to support Eurex's claims and requested the entry of a Scheduling Order to complete the remainder of the pretrial process. In response, counsel for the Board of Trade of the City of Chicago, Inc. ("CBOT") and the Chicago Mercantile Exchange Inc. ("CME") (collectively, "Defendants") offered his own recollection of events, attempted to rebut evidence in the DOJ Documents, and sought to relitigate arguments that Defendants have already lost by requesting a new round of briefing in lieu of allowing the case to proceed to additional discovery and a completion of the pre-trial phase. As explained in the accompanying Memorandum of Law, Defendants' arguments are factually and legally without merit and have already been rejected by the Court – thus, there is no basis for continued delay in this litigation. Indeed, counsel's "factual" rebuttal

regarding the import of the DOJ Documents demonstrates that there are triable issues of material fact and that this case should proceed through the remainder of the pretrial process, including completion of all fact discovery, expert disclosures, dispositive motions, and trial preparation and trial.

Accordingly, Eurex moves for entry of a Scheduling Order pursuant to Federal Rule of Civil Procedure 16(b) in the form attached hereto. The proposed Scheduling Order charts a path for the pretrial proceedings necessary to finally move this case to resolution.

Dated: July 24, 2014

Respectfully submitted,

/s/ Kenneth M. Kliebard

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